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Message Text

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ACTION IO-13

INFO OCT-01 ISO-00 EUR-12 L-03 CPR-01 /030 W
---------- 128490
R 082157Z OCT 76
FM USMISSION USUN NEW YORK
TO SECSTATE WASHDC 9736
INFO AMEMBASSY BONN

UNCLAS USUN 4307

E.O. 11652: N/A
TAGS: CGEN, US, UN, GW
SUBJECT: KOBELSKI CASE

REF: USUN 495, 366, 242 (1975)

1. WE HAVE RECEIVED NOTE FROM FRG MISSION UP-DATE OF DEVELOPMENTS IN CASE INVOLVING SUIT BY JOHN KOBELSKI AGAINST FRG MISSION IN CONNECTION WITH AUTO ACCIDENT WHICH OCCURRED ON DECEMBER 12, 1974.

2. ACCORDING TO FRG MISSION, NEW YORK STATE SUPREME COURT SUBPOENA REQUESTING DAMAGES IN AMOUNT OF $750,000 WAS TURNED OVER TO INSURANCE COMPANY, WHICH ATTEMPTED UNSUCCESSFULLY TO SETTLE CLAIM. FRG MISSION THEN DECIDED TO MOVE TO DISMISS COMPLAINT BY KOBELSKI ON BASIS THAT JURISDICTION HAD NOT BEEN OBTAINED. ON JULY 16, 1975 JUDGE WALLACE R. COTTON DENIED THIS MOTION BY THE ATTORNEYS FOR THE FRG MISSION. JUDGE COTTON'S RULING WAS APPEALED, AND ON DECEMBER 8, 1975, NEW YORK STATE SUPREME COURT, BRONX COUNTY, REAFFIRMED JUDGE COTTON'S RULING.

3. AN APPEAL HAS NOW BEEN FILED BY THE ATTORNEYS FOR THE FRG MISSION WITH THE APPELLATE DIVISION, FIRST DEPARTMENT, NEW YORK SUPREME COURT, AND A DECISION IS PENDING.

4. FRG MISSION STATES SO FAR KOBELSKI HAS NOT SUBSTANTIATED HIS CLAIM OF PHYSICAL INJURY, AND IT IS NOT KNOWN WHAT, IF ANY, ACTUAL PHYSICAL INJURY HE SUSTAINED. FURTHER, FRG
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MISSION INFORMS US OF ITS SURPRISE THAT LOWER COURT HAS HAD

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DIFFICULTY IN RECOGNIZING IMMUNITIES OF FRG MISSION AS AGENT
OF FEDERAL REPUBLIC OF GERMANY.

5. AS A RESULT, FRG MISSION IS SENDING USUN A COMMUNICATION
REQUESTING THAT A SUGGESTION OF IMMUNITY BE MADE IN ITS BEHALF.
WE WILL FORWARD REQUEST AS SOON AS IT IS RECEIVED.

6. WE HAVE POUCHED TO LOUIS R. HAGE, IO/UNP, FOLLOWING
COURT DOCUMENTS FOR INFORMATION:

1) NEW YORK SUPREME COURT APPELLATE DIVISION, FIRST DEPART-
MENT, BRIEF OF DEFENDANT - APPELANT, SUBMITTED BY MCLAUGHLIN,
SIMONE AND LAWLOR, ATTORNEYS FOR FRG MISSION.

2) NEW YORK SUPREME COURT APPELLATE DIVISION, REPLY BRIEF OF
DEFENDANT - APPELLANT, SUBMITTED BY MCLAUGHLIN, SIMONE
AND LAWLOR.

3) NEW YORK SUPREME COURT, APPELLATE DIVISION, FIRST DEPART-
MENT, PLAINTIFF - RESPONDENT'S BRIEF, SUBMITTED BY IROM
AND WITTLES, P.C. AND GEORGE EHRLICH, ATTORNEYS FOR KOBELSKI.
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